

REMARKS

Status of the Claims

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 20-35 are requested to be cancelled. Applicants reserve the right to pursue the subject matter of the canceled claims in subsequent divisional applications. The cancellation of claims does not constitute acquiescence in the propriety of any rejection set forth by the Examiner.

Claims 5 and 6 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Upon entry of this Amendment, claims 2, 3, 5 and 6 will remain pending in the application.

Issues Under Election/Restriction

The Examiner states that newly submitted claims 23-35 are directed to an invention that is independent or distinct from the invention originally claimed. The Examiner asserts that the search and examination of the twelve newly recited variants would place an undue burden on the Examiner. Applicants respectfully disagree. However, to expedite prosecution, Applicants have canceled claims 23-35. Therefore, the rejection is moot. Applicants reserve the right to pursue the subject matter of the canceled claims in future divisional applications.

Issues Under Priority

The Examiner states that the filing date of claims 2-3, 5, 6, 20, 21 or 22 is considered to be the international filing date, July 20, 1999. Applicants have amended claims 5 and 6 by

replacing the term “comprising” with the term “consisting of.” Because there is verbatim support for SEQ ID NOS: 3 and 5 of the present application in the priority document (U.S. Serial No. 60/093,495), claims 5 and 6 are entitled to the priority date of July 20, 1998.

Claim Rejections – 35 U.S.C. § 112, First Paragraph

Claims 5, 6, and 20-22 are rejected by the Examiner under 35 U.S.C. § 112, first paragraph, for lack of written description and lack of enablement. Applicants respectfully request reconsideration and withdrawal of the rejection.

Applicants have canceled claims 20-22. Therefore, the rejection of these claims is moot. The cancellation of claims does not constitute acquiescence in the propriety of any rejection set forth by the Examiner. Applicants reserve the right to pursue the subject matter of the canceled claims in future divisional applications.

With respect to claims 5 and 6, Applicants do not agree with the Examiner’s rejection. However, to expedite prosecution, Applicants have amended these claims by replacing the term “comprising” with the term “consisting of.” Applicants reserve the right to pursue the deleted subject matter in future divisional applications.

Claim Rejections – 35 U.S.C. § 102

A. Rejection of claim 22 as being anticipated by Bartnik et al.

Claim 22 is rejected by the Examiner under 35 U.S.C. § 102 as being anticipated by Bartnik et al. (EP 0705842). Applicants have canceled claim 22, thus rendering the rejection of this claim moot. The cancellation of claims does not constitute acquiescence in the propriety of any rejection set forth by the Examiner. Applicants reserve the right to pursue the subject matter of the canceled claims in future divisional applications.

B. Rejection of claims 20, 21, and 22 as being anticipated by Serratosa et al.

Claims 20, 21, and 22 are rejected by the Examiner under 35 U.S.C. § 102 as being anticipated by Serratosa et al. Applicants have canceled claims 20, 21, and 22, thus rendering the rejection of these claims moot. The cancellation of claims does not constitute

acquiescence in the propriety of any rejection set forth by the Examiner. Applicants reserve the right to pursue the subject matter of the canceled claims in future divisional applications.

**C. Rejection of claims 5, 6, 20, 21, and 22
as being anticipated by Minassian et al.**

Claims 5, 6, 20, 21, and 22 are rejected by the Examiner under 35 U.S.C. § 102 as being anticipated by Minassian et al.

Applicants have canceled claims 20, 21, and 22, thus rendering the rejection of these claims moot. The cancellation of claims does not constitute acquiescence in the propriety of any rejection set forth by the Examiner. Applicants reserve the right to pursue the subject matter of the canceled claims in future divisional applications.

With respect to claims 5 and 6, as discussed above, claims 5 and 6 are entitled to a priority date of July 20, 1998. Because Minassian et al. was published in October 1998, Minassian et al. is not prior art against claims 5 and 6. Applicants respectfully request reconsideration and withdrawal of the rejection.

CONCLUSION


Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date January 22, 2004

By 

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